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ZNR UUUUU ZZH  
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FM AMEMBASSY COTONOU  
TO RUEHC/SECSTATE WASHDC 9699  
INFO RUEHZK/ECOWAS COLLECTIVE  
RUEHLMC/MILLENIUM CHALLENGE CORP WASHDC  
RUEHFR/AMEMBASSY PARIS 1129  
RUEHDK/AMEMBASSY DAKAR 1383  
RUEHLO/AMEMBASSY LONDON 0319  
RUEHKM/AMEMBASSY KAMPALA 0146

UNCLAS COTONOU 000547

SIPDIS

SENSITIVE

SIPDIS

DEPT FOR AF/EPS: KRZYWDA, AF/W:BANKS, EB/TPP/ABT:LERSTEN  
DEPT PASS TO COMMERCE: MD'ANDREA AND USTR: AHEYLIGER/LAGAMA  
PARIS FOR D'ELIA  
DAKAR FOR FCS AND FAS  
KAMPALA FOR FLINTROP  
LONDON FOR HAHN

E.O. 12958: N/A

TAGS: ECON ECPS PGOV BN

SUBJECT: BENIN: SHUT DOWN GSM CELL PHONE PROVIDER RESPONDS

REF: COTONOU 525

¶1. (SBU) SUMMARY: Telecel-Benin (formerly known as Moov), one of the cell phone service providers whose networks were shut down by the Benin Provisional Post and Telecommunications Authority (BPPTA) on July 12 (Reftel) has issued a public response to the shutdown. Telecel-Benin is appealing the BPPTA's decision, which it describes as arbitrary and unfair, and has also made an appeal to President Yayi to help find an amicable resolution to this situation, which has inconvenienced hundreds of thousands of customers. President Yayi's most recent comments, however, do not seem to indicate an eagerness to compromise. END SUMMARY.

¶2. In a public statement issued July 16, 2007, Telecel-Benin denied that it had violated the operating agreement it signed with the Government of Benin in August 2004, or any other law pertaining to the telecommunications sector. The company maintains that it holds a valid 10-year GSM operating license granted by GOB pursuant to the August 2004 agreement, which, it maintains, cannot be revised unilaterally during its period of validity. Furthermore, the company maintains that it has paid all required licensing fees and taxes, and has never been in violation of any law or regulation.

¶3. Telecel-Benin has made countercharges against the BPPTA, claiming that the agency unilaterally raised license fees and improperly suspended the company's operating license. In effect, Telecel-Benin has accused the BPPTA of having violated its own laws and regulations. With regard to the name change controversy (Reftel), Telecel-Benin maintains that the agreement it signed with the GOB does not prohibit company name changes, and that the change of name was not illegal and was not intended to mask illegal activity, as the BPPTA has alleged. Telecel-Benin further maintains that the name change cannot be legally construed as a transfer of GSM license to another company, as maintained by the BPPTA, and thus did not require the prior permission of the BPPTA.

¶4. Despite its harsh criticism of the BPPTA, Telecel-Benin stated that it would like to reach an amicable compromise agreement with the BPPTA, in the interest of restoring service to the hundreds of thousands of customers who lost cell phone service when Telecel-Benin (formerly known as Moov) and Spacetel-Benin (formerly known as Benincell and MTN, and the parent company of Areeba) were shut down on July 12. The company appealed to President Boni Yayi to take an active role in brokering a settlement.

¶15. When contacted by post, a member of BPPTA stated that no compromise settlement was in sight. If the two shut down cell phone providers continue to refuse to pay the new license fees and submit new requests for authorization to provide GSM cell phone services, the BPPTA would have no alternative but to cancel their operating licenses, which are suspended at the present time.

¶16. On July 17, 2007, President Boni Yayi spoke publicly for the first time about the July 12 shutdown, and in doing so expressed support for the BPPTA decision. He expressed skepticism about the motives behind the frequent company name changes, and reiterated that the companies must pay the outstanding fees or face permanent revocation of their licenses.

¶17. COMMENT: President Boni Yayi's hard-line stance against the GSM cell phone providers is widely seen as part of his vigorous anti-corruption efforts, and as such has broad support in the country, despite the massive inconvenience caused by the shutdown. However, the GOB must also avoid arbitrarily modifying business contracts, as Telecel-Benin alleges occurred in this case. One can expect charges and countercharges to continue to be exchanged between the BPPTA and the GSM cell phone providers, while consumers continue to struggle to find reliable cell phone service. END COMMENT.

DIFFILY